



## DISCRIMINATORY HIRING PRACTICES

The Chicago **Human Rights Ordinance** prohibits employers and employment agencies from refusing to hire or promote individuals based on a protected class, which includes the following—

Race	Sex	Religion
Color	Age (over 40)	Marital Status
Ancestry	Disability	Parental Status
National Origin	Sexual Orientation	Source of Income
Gender Identity		Military Discharge Status
Credit History (employment only)		Criminal History (employment only)

All candidates for employment or promotion should receive fair and equal consideration. Employers must ensure that employment decisions are based on job related criteria. When obtaining information from candidates to make hiring decisions, through employment applications or interviews, employers should focus only on the requirements of the position.

**Examples** of questions to **AVOID** asking job applicants—

- How many children do you have? How old are they? Who will take care of them while you are working?
- How old are you?
- Are you married?
- What is your race?
- Where were you born?
- Do you have a disability?
- What is the nature of your disability?
- Have you ever been arrested, convicted, or charged with a crime?

**Other hiring practices** which may violate the Human Rights Ordinance—

- Publishing a job posting or advertisement suggesting a preference for an applicant based on a particular protected class, such as age, race, or sex.
- Ordering or obtaining a copy of an applicant's credit report.
- Publishing a job posting or advertisement requiring applicants to be employed.
- Asking about, ordering or obtaining, an applicant's criminal history before determining that an applicant is qualified.

**Penalties** for violations of the Human Rights Ordinance include—

- Fines of \$100 to \$1,000 per incident, paid to the City.
- Damages and attorney fees, paid to the complaining party.
- An injunction ordering specific actions to eliminate discriminatory practices.

A person who claims to have been subjected to discrimination may file a complaint at the Commission on Human Relations. The Commission investigates and rules on each discrimination complaint through a neutral process which gives complainants and respondents the opportunity to present evidence and legal arguments to support their positions.

See the back of this flyer for selected ordinance and regulation provisions. For more information, see [www.cityofchicago.org/humanrelations](http://www.cityofchicago.org/humanrelations).

## SELECTED LEGAL PROVISIONS

### Employment Discrimination

Section 2-160-030, Chicago Municipal Code (Human Rights Ordinance)

#### **Unlawful Discriminatory Practices**

No person shall directly or indirectly discriminate against any individual in hiring, classification, grading, discharge, discipline, compensation or other term or condition of employment because of the individual's race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income. No employment agency shall directly or indirectly discriminate against any individual in classification, processing, referral or recommendation for employment because of the individual's race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, credit history (employment only), criminal history (employment only), or source of income. The prohibitions contained in this paragraph shall not apply to any of the following:

- (a) use of an individual's unfavorable discharge from military service as a valid employment criterion where (i) authorized by federal law or regulation; or (ii) where the affected position of employment involves the exercise of fiduciary responsibilities and the reasons for the dishonorable discharge related to his or her fiduciary capacity;
- (b) hiring or selecting between individuals for bona fide occupational qualifications; and
- (c) giving preferential treatment to veterans and their relatives as required by federal or state law or regulation.

CCHR Reg. 315.100

#### **Discriminatory Advertising**

It is a violation of the HRO for an employer or an employment agency to cause a newspaper, magazine or similar publication to publish "help wanted" advertisements in columns or sections segregated on the basis of membership in a Protected Class (see Reg. 100(26) above) or to publish such advertisements using terminology suggesting that the positions for which applicants are sought are restricted to or appropriate for persons who are members of a Protected Class. For example, the placement of an advertisement in columns classified by the publisher/s in headings "Male" of "Female" shall be considered as an expression of a preference, limitation or discrimination based on sex. Similarly, an advertisement expressly directed to one sex, *e.g.*, "mature man" or "attractive woman" or where the advertisement utilizes a sex-specific job title, *e.g.*, "girl Friday," shall be considered discrimination on the basis of sex. There is no violation of the HRO, however, if, for example, sex is a *bona fide* occupational qualification for the job advertised.

CCHR Reg. 320.100

#### **Discriminatory Pre-Employment Inquiries**

Any pre-employment inquiry in connection with prospective employment which expresses directly or indirectly any limitation, specification or discrimination as to membership in a Protected Class (see Reg. 100(26) above) shall be unlawful unless based upon a BFOQ. An employer may not, for example, make inquiry about the parental status of an applicant for employment. However, a pre-employment inquiry may, for example, ask an applicant to designate his/her gender or may solicit the applicant's preferred designation as "Mr.," "Mrs.," or "Ms." provided that the inquiry is shown to be made in good faith for a non-discriminatory purpose.

CCHR Reg. 320.110

#### **Citizenship and Similar Inquiries**

An employer or an employment agency may not require a job applicant to disclose his or her national origin, ancestry or membership in any of the other Protected Classes (see Reg. 100(26) above), unless the employer or agency can show a *bona fide* occupational qualification. Similarly, an employer or employment agency may not require a job applicant to disclose his/her citizenship where a citizenship requirement would have the purpose or effect of discriminating against a person on the basis of national origin.

CCHR Reg. 365.150

#### **Pre-Employment Inquiries and Examinations**

- (a) An employer may inquire of applicants for employment or referral or admission to an apprenticeship or other training program whether or not an applicant has the ability to perform the essential functions of the job.
- (b) An employer may require an applicant with a disability who has been found otherwise qualified to submit to pre-employment physical or psychological examinations after an offer of employment has been made if:
  - (1) all entering employees for such position are subjected to such an examination regardless of disability;
  - (2) the results are available to the applicant and used in accordance with the HRO; and
  - (3) information obtained regarding the medical condition or history of the applicant is maintained in a separate, confidential file and only disclosed to supervisors who may need the information to arrange reasonable accommodations and to safety or first aid personnel if the disability might require emergency treatment.